

**UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA
CASE NO. 1:20-cv-00954-WO-JLW**

FARHAD AZIMA,

Plaintiff,

v.

NICHOLAS DEL ROSSO and
VITAL MANAGEMENT SERVICES,
INC.,

Defendants.

**DEFENDANTS' MOTION TO
SEAL**

NOW COMES Defendants Nicholas Del Rosso (“Del Rosso”) and Vital Management Services, Inc. (“VMS”) (collectively, “Defendants”), by and through their undersigned counsel, and pursuant to Local Rules 5.4 and 5.5, hereby move this Court to seal Exhibits A, B, C, and D to the Declaration of Brandon S. Neuman (“Neuman Declaration,” D.E. 180). In support of this Motion, Defendants show the Court the following:

1. Exhibit A to the Neuman Declaration a true and accurate copy of a February 15, 2023 letter sent by Defendants’ counsel to Plaintiff’s counsel regarding the misuse of confidential information in other pending matters. Portions of Exhibit A have been redacted to avoid public disclosure of the confidential information that Plaintiff appears to have used in other matters—more specifically, Defendants’ commercially sensitive and non-public business information.

2. Exhibit B to the Del Rosso Declaration contains a true and accurate copy of Plaintiff's Rule 26(a)(1) Initial Disclosures, served on Defendants on December 21, 2022. Portions of Exhibit B have been redacted to avoid public disclosure of personal identifying information, including addresses and phone numbers.

3. Exhibit C contains transcript excerpts from the deposition of Nicholas Del Rosso on February 13 & 14, 2023. The Parties are currently within their 30-day period under the Protective Order (D.E. 101-1, at ¶10) to designate portions as confidential. Accordingly, Defendants request that the Court maintain Exhibit C under seal in its entirety through and including March 17, 2023, as to allow the parties to make confidentiality designations and determine whether to seek to permanently redact any information therein.

4. Exhibit D contains an exhibit entered at Del Rosso's deposition—specifically, a February 13, 2023 letter that Defendants' counsel received from Allen & Overy LLP, a law firm representing RAK Development LLC and the Investment and Development Office of the Government of Ras Al Khaimah ("RAK"). Again, the Protective Order in this case allows for a 30-day period to designate information—including exhibits—confidential. (D.E. 101-1, at ¶ 10). Accordingly, Defendants request that Exhibit D be sealed in its entirety through and including March 17, 2023, as to allow the parties to make any

confidentiality designations and determine whether to seek to permanently redact any of the information therein.

5. With respect to Exhibit A, sealing is warranted because these exhibits contain sensitive and confidential business information concerning Defendants' fraud-examination work. *See, e.g., Silicon Knights, Inc. v. Epic Games, Inc.*, No. 5:07-CV-275-D, 2011 WL 901958, at *2 (E.D.N.C. Mar. 15, 2011) (allowing redaction of documents where "the documents in question contain confidential and proprietary commercial information, including . . . highly sensitive financial and business information . . . which is of utmost importance to them but not generally available to the public or bearing importance to any public matters"). The information is being submitted merely for the purpose of providing an example of Plaintiff's improper use of confidential information in other proceedings. As such, the redactions are limited such that the public will be able to understand the general purpose of Exhibit A.

6. With respect to Exhibit B, sealing is warranted, as it contains personal identifying information such as addresses and phone numbers of parties as well as non-parties. *See, e.g., Warner v. Midland Funding, LLC*, 2021 WL 3432556, at *7 (M.D.N.C. Aug. 5, 2021) (granting motion to seal "as it relates to all personal identifying information" that was "not relevant to the

Court's decision"). The addresses and phone numbers of the parties and non-parties listed in Exhibit B are not relevant to the matters before the Court.

7. Accordingly, sealing is appropriate here. Public knowledge of Exhibits A, B, C, and D to the Neuman Declaration would not enhance the public's understanding of the dispute at bar. Therefore, Defendants' interest in keeping this information sealed outweighs any interest that the public would have this information.

8. In light of the above, Defendants seek to (a) permanently seal Exhibit A and B, subject to the public redacted versions, and (b) temporarily seal Exhibits C and D, through and including March 17, 2023, without prejudice to the parties' right to later seek permanent sealing of any of the information therein.

9. In accordance with the Local Rules, Defendants will submit a Local Rule 5.4 Checklist to Judge Osteen's ECF mailbox within three (3) business days of filing this Motion.

WHEREFORE, Defendants respectfully request that the Court seal Exhibit A, B, C, and D to the Neuman Declaration.

Respectfully submitted, this the 24th day of February, 2023.

**NELSON MULLINS RILEY &
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CERTIFICATE OF SERVICE

I hereby certify that on this 24th day of February, 2023, I electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system, which will send electronic notification of filing to the following:

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